

COMPLAINT UNDER 42 USC § 1983, CIVIL RIGHTS ACT-TDCJ-ID (REV. 7/97)

IN THE UNITED STATES DISTRICT COURT
FOR THE _____ DISTRICT OF TEXAS

DIVISION

United States District Court
Southern District of Texas
FILED

AUG 22 2016

Abel Alfred McVay #01871939
Plaintiff's name and ID Number

Houston, TX Harris County Jail
Place of Confinement

David J. Bradley, Clerk of Court

CASE NO. _____
(Clerk will assign the number)

v.

State of Texas
Defendant's name and address

Houston TX, Harris County Jail
Defendant's name and address

Defendant's name and address
(DO NOT USE "ET AL")

INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the Clerk of the United States Court for the appropriate District of Texas in the Division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. The list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate District Court, the Division and an address list of the Divisional Clerks.

FILING FEE AND IN FORMA PAUPERIS

1. In order for your complaint to be filed, it must be accompanied by the filing fee of \$150.00.
2. If you do not have the necessary funds to pay the filing fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis* (IFP), setting forth information to establish your inability to prepay the fees and costs or give security therefore. You must also include a current six (6) month history of your Inmate Trust Account. You can acquire the applications to proceed IFP and appropriate Inmate Account Certificate from the law library at your prison unit.
3. 28 U.S.C. 1915, as assembled by the Prison Litigation Reform Act of 1995 (PLRA), provides, "...if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." Thus, the Court is required to assess and when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your Inmate Account, until the entire \$150 filing fee has been paid.
4. If you intend to seek *in forma pauperis* status, then do not send your complaint without an Application to Proceed IFP, and the Certificate of Inmate Trust Account. Complete all the essential paperwork before submitting it to the Court.

CHANGE OF ADDRESS

It is your responsibility to inform the Court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion (s) for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41, (b), Federal Rules of Civil Procedure.

I. PREVIOUS LAWSUITS:

- A. Have you filed *any* other lawsuits in state or federal court relating to your imprisonment? YES ☒ NO
- B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: August 17, 2016
2. Parties to previous lawsuit:
Plaintiff(s) Abel Alfred McVay
Defendants(s) STATE OF TEXAS
3. Court: (If federal, name the district; if state, name the county.) HARRIS
4. Docket Number: 185 Court Docket Number
5. Name of judge to whom case was assigned: Brian Rains
6. Disposition: (Was the case dismissed, appealed, still pending?)
Appealed, still pending
7. Approximate date of disposition: Petition For writ of Habeas Corpus • Disposition •
February 24, 2015

II. PLACE OF PRESENT CONFINEMENT: 1200 Baker St Harris County Jail

III. EXHAUSTION OF GRIEVANCE PROCEDURES:

Have you exhausted both steps of the grievance procedure in this institution? YES ☒ NO

Attach a copy of the Step 2 grievance with the response supplied by the prison system.

IV. PARTIES TO THIS SUIT:

A. Name and address of plaintiff: Abel Alfred McVay
1200 Baker ST, Harris County Jail
Houston TX 77002

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

false Imprison 2013 - 2016 to 2017

Defendant #2: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #3: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #4: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Defendant #5: _____

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen and who was involved. Describe how each defendant is involved. You need not give any legal or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember that the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

I've been in the harris county Jail going on four year 01-05-2017 on misdemeanor Assault Charge These Civil Rights Violation is false Imprison, This Assault Charge has a 2 year Statute Limitation, In this case there is no inhandment.

RELIEF: State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

Dismissed all Charges

VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you gave ever used or been known by including any and all aliases:

Abel Alfred McWay

B. List all TDCJ-ID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you, if known to you.

011659534

VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? ☐ YES ☒ NO

B. If your answer is "yes", give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): County
2. Case Number: 1372812
3. Approximate date sanctions were imposed: 01-01-2013
4. Have the sanctions been lifted or otherwise satisfied? ☐ YES ☒ NO

C. Has any court ever warned or notified you that sanctions could be imposed? ☐ YES ☒ NO

- D. If your answer is "yes", give the following information for every lawsuit in which warning was imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed warning (if federal, give the district and division): _____
2. Case Number: _____
3. Approximate date warnings were imposed: _____

Executed on: _____
DATE

(Signature of plaintiff)

PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand if I am released or transferred, it is my responsibility to keep the Court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand that I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions in a Court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire \$150 filing fee and costs assessed by the Court, which shall be deducted in accordance with the law from my inmate account by my custodian until the filing fee is paid.

Signed this 17 day of August, 19 2016.
(Day) (month) (year)

Alfred McWay
(Signature of plaintiff)

WARNING: The plaintiff is hereby advised any false or deliberately misleading information provided in response to the following questions will result in the imposition of sanctions. The sanctions the Court may impose include, but are not limited to monetary sanctions and/or the dismissal of this action with prejudice.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas
FILED

AUG 22 2016

David J. Bradley, Clerk of Court

INSTRUCTIONS FOR FILING
A COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

CIVIL RIGHTS SUIT - Pursuant to Title 42 U.S.C. §1983:

An action against a person who has acted under color of state law (such as a state official or employee) to deprive a person of rights secured by the constitution or laws of the United States. Civil rights suits filed by inmates generally involve conditions of confinement. Claims as to legality or duration of confinement must be brought in a petition for writ of habeas corpus.

NOTE:

Proof-read your complaint after completing the forms to insure compliance with all instructions.

Your complaint can be brought to this Court only if at least one of the named defendants is located within this district. Further, it is necessary for you to file a separate complaint for each claim you have unless the claims are all related to the same incident or issue.

CIVIL RIGHTS COMPLAINTS FORMS:

Civil rights complaint forms are available in prison unit law libraries. If you are not in prison, the court will provide a form. The form is to be used either as the initial complaint or as an additional questionnaire to supplement the initial complaint. The packet of civil rights forms available includes the following: (1) Instructions for filing a complaint for Violation of Civil Rights, (2) Complaint forms, and (3) Application to Proceed In Forma Pauperis.

FILING THE COMPLAINT:

To start a civil rights action, you must submit one original copy, one courtesy copy, plus one copy of the complaint for each defendant you name. For example, if you are naming two defendants, you would submit to Clerk:

- a) the original complaint for filing;
- b) two copies for the defendants (one for each defendant); and
- c) one additional copy (courtesy copy), for a total of four forms. You should keep one additional copy of the complaint for your records.

Each complaint form submitted must be verified. Verification may be accomplished by declaration pursuant to Title 28 U.S.C. §174.6 or notarization. The complaint forms have a verification statement printed at the bottom of page 4. By verification, you are attesting to the truthfulness of your allegations and contents of your complaint.

All complaint forms and copies must be identical. All information must be identical. Forms from other districts should not be submitted.

Do not write on the back of the complaint forms. If you need more space, use additional sheets of paper. Your complaint and all other pleadings/documents must be legibly handwritten or mechanically reproduced. With regard to any attachments, exhibits or motions submitted with the complaint, sufficient copies must be provided for each required copy of the complaint. These may be handwritten or mechanically reproduced. The Clerk does not provide unless a fee of \$0.50 per page is paid.

TITLE OF THE ACTION:

In the initial complaint, "the title of the action: (False Imprison Plaintiff vs State of Texas, Defendant)" should include the names of all parties. See: Rule 10 (a), Federal Rules of Civil Procedure.

DEFENDANTS:

You must provide the Clerk with the complete name and address of each defendant. If the first name is unknown, provide an initial. Otherwise, the Clerk cannot prepare summons for issuance of service of process by the Marshal. See: Rule 4 (j) of the Federal Rules of Civil Procedure.

STATEMENT OF CLAIM:

You are required to give facts regarding your grievance. THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.

FILING FEE/FILING IN FORMA PAUPERIS:

The filing fee of \$ 150.00 should be paid by check or money order payable to the U.S.District CLERK. In addition the U.S. Marshal may require to pay the cost of serving the complaint on each defendant. The service fee of \$ 3.00 per defendant should be submitted on the clerk with the complaint.

If you are in prison or jail when you submit your application to proceed as a pauper, you must attach a certified copy of your inmate trust fund account statement for six month period preceding the date that you are filing the complaint. If you are in TDCJ-ID, you may ask your law librarian for help in getting a copy of your account.

NOTE: If you are not incarcerated at the time of filing and you are paying the filing fee, it is your responsibility, not the U.S. Marshal's, to serve the defendant(s) with summons and complaint. The summons, however, must be under seal of the Clerk. Instructions for service when you are not incarcerated and are paying the filing fee may be obtained from the Clerk.

If you are unable to immediately pay the filing fee service costs of this action, you may petition the Court to proceed in forma pauperis. An Application to Proceed in Forma Pauperis is enclosed in this packet. The application must be verified pursuant to Title 28 U.S.C. §1746. A verification statement is provided on the reverse of the Application. If the court gives you permission to proceed as a pauper, arrangements will be made to collect the filing fee in installments.

RULE 11, FED. R. CIV. P.:

This rule states that only the signature of a pro se party or parties on pleadings will be acceptable to the Court.

INSTRUCTIONS WHEN MORE THAN ONE PLAINTIFF:

If you and any other plaintiff(s) have the same claims, events, and/or defendants to be stated in your complaint, these should be combined into the same complaint so that one case can be filed. Only if you have different claims, events, and/or defendants should separate complaints be submitted.

Each plaintiff must verify each complaint form by declaration pursuant to Title 28 U.S.C. §1746 or by separate notarizations. By verification, each plaintiff is attesting to the truthfulness of all allegations and contents of his complaint.

Each plaintiff will be required to provide an Application to Proceed In Forma Pauperis if the \$150.00 filing fee is not paid immediately.

When the complaint forms are completed, mail them to the Clerk of the U.S. District Court, Houston Division, P.O. Box 61010, Houston, Texas 77208. After your complaint is filed, a "Notification of Filing" will be sent to you. It will inform you of the civil action number (case number), the District Judge, and the Magistrate Judge assigned to your case.

FILING INSTRUMENTS AFTER SERVICE HAS BEEN ISSUED:

You must serve the defendant(s) or defense counsel with a copy of every pleading, letter, or other document submitted for consideration by the Court. The original of all documents filed with the Clerk should have a proper "Certificate of Service ". The following certificate should appear following the plaintiff's signature at the end of each instrument.

CERTIFICATE

I, McVay Alfred (name) Abel, do hereby certify that a true and correct copy of the foregoing _____ (name of instrument) _____

has been served upon the defendant(s) by placing same in the U.S. Mail, addressed to

_____ (name and address of defendant(s) or counsel) _____

on _____ (date) _____ day of _____ (month) _____, (year) _____.

_____ (your signature) _____

Any pleading or other document submitted to the Clerk for filing which does not bear a proper Certificate of Service will be returned to the submitting party. All instruments (pleadings, letters, motions or other documents) pertaining to this case must be signed by all plaintiffs and must state the civil action number (case number).

IMPORTANT INFORMATION:

1. IF YOU DO NOT KEEP THE COURT ADVISED OF YOUR CURRENT ADDRESS, YOUR CASE MAY BE DISMISSED FOR WANT OF PROSECUTION.
2. Requests for any type of relief must be in the form of a proper motion, filed in a pending case. Please note that if you submit a letter requesting relief, it will not be treated as a proper motion.
3. It is improper to communicate directly with judges or magistrates concerning matters which are or may become a subject in their Court.
4. It is improper for Clerk, Judges, or Magistrates to give legal advice to litigants.
5. All documents and correspondence submitted to the Clerk must be on letter size paper (8 1/2 by 11 inches). Please do not use legal size (8 1/2 by 14 inches) paper.

United States District Court
Southern District of Texas
FILED

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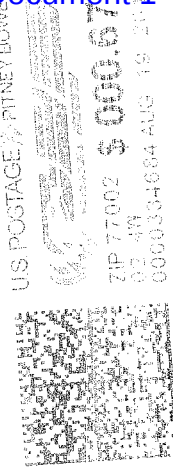
David J. Bradley, Clerk of Court

HARRIS COUNTY SHERIFF'S OFFICE JAIL

Name: Abel Alfred McVay

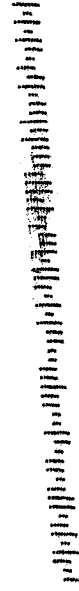
SPN: #01871939 Cell: 6B2

Street: 1200 BAKER ST
Houston, Texas 77002



United States District Court
Southern District of Texas
Post office Box 61010
Houston TEXAS, 77208

LEGAL
INDIGENT



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